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2007 SENATE JUDICIARY

SB 2204

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2204

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 23, 2007

Recorder Job Number: 1805

Committee Clerk Signature

*Moina Solby*

**Minutes:** Relating to Immunity from liability for consumption of alcoholic beverages for under age.

**Senator David Nething**, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

**Testimony In Support of Bill:**

**Sen. Nick Hacker**, Dist. #42 (meter :80) Introduced and reviewed the bill – Att. #1.

**Sen. Nething** questioned on page 3, how was 12 hours derived? (meter 7:12) It was an arbitrary number and any could be used, Colorado used similar language.

**Sen. Nelson** questioned (meter 7:49) on line 18, questioned in the case of a “keg” or fraternity party were it was a large group of people, who would be immune and who would be prosecuted. Discussion about the importance of having enough people with immunity to keep the panic down and possibly help medically, better odds with more then one or two.

**Sen. Fiebiger** asked how often (meter 9:13) have been charged. I am not aware of any charges. Law enforcement states that they do not charge the minor, but I have heard conflicting stories that they have been charged This bill is two fold, you can not legislate that a person makes the right decision to not do something, all we want to do is cut them some slack in the law part and second is “get help”!

**Sen. Fiebiger** questioned on page 5, 14-10-06 do they refer to the sexual conduct part of the code. Discussion of the part of law that a underage person could be charged with curfew. This is in here because of the delinquency "catch" all for minors.

**Testimony in Opposition of the Bill:**

None

**Testimony Neutral to the Bill:**

None

**Sen. Nelson** reviewed the bill (meter 12:39) with Sen. Hacker. Discussion the number "5" persons being immune and hopefully the law enforcement along with judicial discretion would immune all who should be. The committee spoke of "bravery in numbers" and they may be more brave if they had some of the support of there friends.

**Senator David Nething**, Chairman closed the hearing.

**Sen. Lyson** made the motion to Do Pass and **Sen. Olafson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Olafson**

**Senator David Nething**, Chairman closed the hearing.



**REPORT OF STANDING COMMITTEE (410)**  
January 25, 2007 9:46 a.m.

**Module No: SR-17-1188**  
**Carrier: Olafson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2204: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS**  
**(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2204 was placed on the**  
**Eleventh order on the calendar.**

2007 HOUSE JUDICIARY

SB 2204

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2204

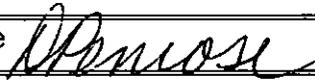
House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/27/07

Recorder Job Number: 3965

Committee Clerk Signature



Minutes:

**Chairman DeKrey:** We will open the hearing on SB 2204.

**Sen. Nick Hacker:** Sponsor (see attached testimony).

**Rep. Dahl:** Was this unique to ND, or have other states done this and to what result.

**Sen. Nick Hacker:** One other state has adopted similar legislation, this is modeled after the state of CO, and they believe it has achieved pretty good success.

**Rep. Onstad:** Would you call this a Good Samaritan law.

**Sen. Nick Hacker:** Yes.

**Rep. Onstad:** A couple of questions that have come up. If kids go out and go drinking, don't worry if you get alcohol poisoning, we'll take care of it.

**Sen. Nick Hacker:** I don't think that's the message we're trying to send here. I think the message we're trying to send is, get some help. Sometimes people are going to break the law no matter what you do. I don't think that this bill is going to encourage them to go out and binge drink. I think if they are going to do that, they will do it anyway. If they have the intent to binge drink, I think they are going to binge drink. This bill does not address minors drinking.

We need to do that at a different level besides legislation. We cannot dictate whether or not people are going to make good or bad decisions. All we can do is regulate on what happens

after they make that decision. Ideally, you would change at the root of the problem, this is beyond that stage.

**Rep. Onstad:** You made a statement, good or bad decisions. When is the time when a person becomes responsible for their own actions.

**Sen. Nick Hacker:** I'm not sure how to answer that question, because that bill does not address whether or not they should be responsible for their actions. If you want to talk about being responsible for actions, maybe we should take a look and say, we're going to allow you to be responsible to go out and seek the help that is needed, not to take it into their own hands and decide that, in fear of retribution, that they should take care of it and be the responsible one on their own. This sends a clear message, and I believe a little more responsibly, to call the police and come we need help.

**Rep. Klemin:** Under this, under the premise that this bill does not protect at all the person requiring medical assistance from consuming alcoholic beverages. If that person is under 21, they are subject to all the other penalties that are already on the books.

**Sen. Nick Hacker:** Yes.

**Rep. Klemin:** If the individual that calls 911, there are certainly other telephone numbers that could be called for emergency help, such as the sheriff, police department, etc. Is there some reason why you limited it to 911 rather than any call that's been made to emergency personnel.

**Sen. Nick Hacker:** No, if you wanted to put emergency personnel in there, or something along those lines, that's fine.

**Rep. Klemin:** Immunity, the maximum number of individuals that can be immune for any of these purposes, is 5 individuals. Are we going to have five people making telephone calls.

**Sen. Nick Hacker:** In the situation, what we wanted to try and avoid, the number is arbitrary, it could be three, five, four, a small group. If you have intoxicated individuals that are underage, trying to tend to an individual that is sick, it's probably not wise to say, one individual, everybody else has to leave. Now you've left yourself with a situation where you have a sick individual and another minor who is intoxicated waiting for help to arrive, that's kind of the idea behind the small group number.

**Rep. Klemin:** So if we had six people, then we have to decide which one has to leave. That person would not be immune and the rest would be.

**Sen. Nick Hacker:** Under the current draft of the law, yes. Because we don't know how to state small group, if you say small group, what does that mean. It was an arbitrary number. Colorado had three or four.

**Rep. Koppelman:** Just to pursue that, I think I understand your incentive. Doesn't that open up a possibility of a small gathering where people are indulging in this practice, that are underage and all becoming immune because we have protection for up to five people, so let's all call 911. I know that's not your intent, but I'm just wondering if you had thought of that.

**Sen. Nick Hacker:** Only one person needs to call 911, not all five. It provides immunity for the maximum number of up to five and that is just to address the same situation.

**Rep. Koppelman:** On page 2, line 12, item #7, it says an individual under 21 years of age is immune from criminal prosecution under this section if that individual called 911 and reported... Then at the bottom of that paragraph, it says the maximum number of individuals that may be immune for any one occurrence is five individuals. I would read that to say that all five have to call 911 to be immune.

**Sen. Nick Hacker:** I can see how you're reading that.

**Rep. Klemin:** It seems to me that this subsection 7 that is being referred to, contains the word "or" on page 2, line 15, or provided assistance to the individual in need of medical assistance... One called 911, the others provided assistance.

**Sen. Nick Hacker:** Yes.

**Rep. Wolf:** Do you have any statistics how many children are dying from alcohol poisoning in ND.

**Sen. Nick Hacker:** No, I don't have any statistics.

**Rep. Wolf:** Would this help.

**Sen. Nick Hacker:** Well, I think it will. Sometimes we have several purposes for why legislation is introduced. Sometimes it's about a message and sometimes it's the logistics. I think this runs a parallel track. It's to send a message that says if you need help, seek help and you will not get in trouble. I think it may not help all cases, but it may help some. To be honest, I think this help on some of our college campuses, because they will get the word out about things such as this.

**Chairman DeKrey:** Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2204

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/28/07

Recorder Job Number: 4127

Committee Clerk Signature

*Penrose*

Minutes:

**Chairman DeKrey:** We will take a look at SB 2204.

**Rep. Griffin:** Explained his amendment.

**Rep. Meyer:** Second.

**Chairman DeKrey:** Voice vote. Motion carried.

**Rep. Klemin:** I move that we amend further, on page 2, line 17 and 18, delete that sentence about the immunity for 5 people, and also on page 3, line 1 and 2.

**Rep. Koppelman:** Second.

**Chairman DeKrey:** Voice vote. Motion carried. We now have the bill before us as amended. What are the committee's wishes in regard to SB 2204.

**Rep. Kingsbury:** I move a Do Pass as amended.

**Rep. Meyer:** Second.

**Rep. Wolf:** I have real concerns about this, I understand what he is saying about college kids. I think it is a wonderful bill for college kids. It won't take long for the word to get out on the college campuses that this bill is here. My concern is that the word that is going to get out with high school students, a bill that says we can all go out and get drunk, and the worst of the

ones will call and none of us are going to get into trouble. If I call 911 I won't get into trouble, this is a concern to me.

**Chairman DeKrey:** I have the same concern too. Law enforcement will be back if there are problems with this bill.

**Rep. Delmore:** If you call 911, there better be an emergency, or you will get in trouble for that.

**Rep. Wolf:** I have a problem with page 3, where it talks about delivering alcohol to a minor and calling within 12 hours there will be mitigating circumstances.

**Rep. Klemin:** There is judicial discretion.

**Rep. Onstad:** I go back to the discussion about being responsible for yourself. If you are out drinking, you know it is breaking the law but it happens. I'm not going to sit there and look at the century code and I'm going to do the right thing and call 911. People need to be responsible.

**Rep. Griffin:** I just don't see the high school students doing this, I don't know why they would call the cops and say we've got someone sick here, they just wouldn't do anything here.

**Rep. Klemin:** When I was in college there were two incidents of people that died from overdrinking. One was in his room and one was in a closet.

**Rep. Delmore:** I think many of us remember the binge drinking bill that we passed last session for binge birthday drinks. I think we try to address it, but just to ignore the fact that somebody's life is in danger, I don't think it is very responsible for us not to pass this bill.

**Chairman DeKrey:** The clerk will call the roll.

12 YES 2 NO 0 ABSENT

DO PASS AS AMENDED

CARRIER: Rep. Griffin

PROPOSED AMENDMENTS TO SENATE BILL NO. 2204

Page 2, line 13, replace "called 911" with "contacted law enforcement or emergency medical services"

Page 2, line 15, replace "or" with an underscored comma

Page 2, line 17, after "scene" insert ", or was the individual in need of medical assistance"

Page 2, line 28, replace "called 911" with "contacted law enforcement or emergency medical services"

Page 2, line 30, replace "or" with an underscored comma

Page 3, line 1, after "scene" insert ", or was the individual in need of medical assistance"

Page 3, line 9, replace "the police" with "law enforcement"

Page 4, line 26, replace "the police" with "law enforcement"

Page 5, line 16, replace "the police" with "law enforcement"

Renumber accordingly

*Plus remove on page 2, line 17 & 18 the sentence  
about 5 people being immune, and on page 3,  
line 1 & 2 - delete the same sentence.*

**House Amendments to SB 2204 (70072.0202) - Judiciary Committee 03/06/2007**

Page 2, line 13, replace "called 911" with "contacted law enforcement or emergency medical services"

Page 2, line 15, replace "or" with an underscored comma

Page 2, line 17, after "scene" insert ", or was the individual in need of medical assistance" and remove "The maximum number of"

Page 2, remove line 18

Page 2, line 28, replace "called 911" with "contacted law enforcement or emergency medical services"

Page 2, line 30, replace "or" with an underscored comma

**House Amendments to SB 2204 (70072.0202) - Judiciary Committee 03/06/2007**

Page 3, line 1, after "scene" insert ", or was the individual in need of medical assistance" and remove "The maximum number"

Page 3, remove line 2

Page 3, line 9, replace "the police" with "law enforcement"

**House Amendments to SB 2204 (70072.0202) - Judiciary Committee 03/06/2007**

Page 4, line 26, replace "the police" with "law enforcement"

**House Amendments to SB 2204 (70072.0202) - Judiciary Committee 03/06/2007**

Page 5, line 16, replace "the police" with "law enforcement"

Renumber accordingly

Date: 2/28/07  
 Roll Call Vote #: 1

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2204**

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Rep. Kingsbury Seconded By Rep. Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging		✓	Rep. Onstad		✓
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Griffin

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2204: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2204 was placed on the Sixth order on the calendar.

Page 2, line 13, replace "called 911" with "contacted law enforcement or emergency medical services"

Page 2, line 15, replace "or" with an underscored comma

Page 2, line 17, after "scene" insert ", or was the individual in need of medical assistance" and remove "The maximum number of"

Page 2, remove line 18

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Page 3, remove line 2

Page 3, line 9, replace "the police" with "law enforcement"

Page 4, line 26, replace "the police" with "law enforcement"

Page 5, line 16, replace "the police" with "law enforcement"

Renumber accordingly

2007 SENATE JUDICIARY

CONFERENCE COMMITTEE

SB 2204

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2204**

**Senate Judiciary Committee**

Check here for Conference Committee

Hearing Date: April 2, 2007

Recorder Job Number: 5676

Committee Clerk Signature

*Maura L. Salby*

**Minutes:** Relating to immunity from liability for consumption of alcoholic beverages for under age.

**Senator Lyson**, Chairman of the conference committee called the members to order. All Senators and Representatives were present. The hearing opened with the following work:

**Sen. Lyson** requested that a House member explain the amendment. **Rep. Griffin** explained the first change was to take the word police and change it to law enforcement or emergency medical services. The second would allow them to be immune to prosecution as well.

**Sen. Lyson** asked if that is why you took out the maximum number? No, that was not my amendment it was the committees decision because they had concerns on which five.

**Sen. Lyson** stated that all that attended the party would become immune, even the ones that showed up later-to be part of the immunity. He also had concerns that the person needing assistance should become immune? The people who help should be immune. They discussed a scenario. (meter 3:00) **Sen. Fiebiger** stated his discussions with officers, usually they do not charge the people helping. If you do not have a cap then where is the line.

The committee discussed that the number would be decided by the police and the judge in the investigative process. They discussed the five people was derived with people staying with the sick person, a person calling for help, possible person directing the help arriving.

**Sen. Lyson** stated that the bill was designed to have someone stay and get help for the person who needs it. The first part of the amendment was in agreement with the committee. There was a discussion of an individual in need of help rejecting help because of the fear of getting into trouble. They spoke of a true medical emergency; seizure.

**Sen. Fiebiger** stated that the title states the immunity was relating to the individual. The committee discussed how things in the past were done and the need to have some parameters. They discussed the kids knowledge of the law and if it looks better if you stay then why run? **Rep. Griffin** would be in support of a number. They spoke of the law enforcement using their discretion and the kids who do the right thing generally do not get charged.

Chairman Lyson called for the motion:

**Rep. Boehning** made the motion that the House recedes from the houses amendment and adopt the amendment, **Rep. Griffin** seconded the motion. All members were in favor and the motion passes.

**Senator Lyson**, Chairman closed the hearing.

*JZ*  
4-2-7

PROPOSED AMENDMENTS TO SENATE BILL NO. 2204

That the House recede from its amendments as printed on page 796 of the Senate Journal and pages 878 and 879 of the House Journal and that Senate Bill No. 2204 be amended as follows:

Page 2, line 13, replace "called 911" with "contacted law enforcement or emergency medical services"

Page 2, line 15, replace "or" with an underscored comma

Page 2, line 17, after "scene" insert ", or was the individual in need of medical assistance"

Page 2, line 28, replace "called 911" with "contacted law enforcement or emergency medical services"

Page 2, line 30, replace "or" with an underscored comma

Page 3, line 1, after "scene" insert ", or was the individual in need of medical assistance"

Page 3, line 9, replace "the police" with "law enforcement"

Page 4, line 26, replace "the police" with "law enforcement"

Page 5, line 16, replace "the police" with "law enforcement"

Renumber accordingly

Date: April 2, 2007  
Roll Call Vote # 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2204

Senate \_\_\_\_\_ Committee \_\_\_\_\_

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken House Recede + Amendments

Motion Made By Rep. Boehning Seconded By Rep. Griffin

Senators	Yes	No	Representative	Yes	No
Sen. Lyson	✓		Rep. Boehning	✓	
Sen. Olafson	✓		Rep. Kingsbury	✓	
Sen. Fiebiger	✓		Rep. Griffin	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 2204 (, as (re)engrossed):

Date: 4/2/07  
11:30

Your Conference Committee \_\_\_\_\_

**For the Senate:**

**For the House:**

	Y	N.		Y	N
✓ Sen. Lyson	✓		✓ Rep. Boehning ①	✓	
✓ Sen. Olafson	✓		✓ Rep. Kingsbury	✓	
✓ Sen. Feibiger	✓		✓ Rep. Griffin ②	✓	

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 796 -- \_\_\_\_\_

\_\_\_\_\_ and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

**DATE:** \_\_\_\_\_

**HOUSE CARRIER:** \_\_\_\_\_

**SENATE CARRIER:** \_\_\_\_\_

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

**MOTION MADE BY:** \_\_\_\_\_

**SECONDED BY:** \_\_\_\_\_

**VOTE COUNT:** \_\_\_ YES \_\_\_ NO \_\_\_ ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**SB 2204:** Your conference committee (Sens. Lyson, Olafson, Fiebiger and Reps. Boehning, Kingsbury, Griffin) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 796, adopt amendments as follows, and place SB 2204 on the Seventh order:

That the House recede from its amendments as printed on page 796 of the Senate Journal and pages 878 and 879 of the House Journal and that Senate Bill No. 2204 be amended as follows:

Page 2, line 13, replace "called 911" with "contacted law enforcement or emergency medical services"

Page 2, line 15, replace "or" with an underscored comma

Page 2, line 17, after "scene" insert ", or was the individual in need of medical assistance"

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Page 5, line 16, replace "the police" with "law enforcement"

Renumber accordingly

SB 2204 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

SB 2204

AH # 1  
1-23-77

STATE SENATOR NICK HACKER  
District 42, Grand Forks, ND

1620 2<sup>nd</sup> Ave N  
Grand Forks, ND 58203

(701) 739-3917  
NHacker@nd.gov

Mr. Chairman and distinguished members of the Senate Judiciary committee,

My name is Nick Hacker, State Senator from district 42 which comprises most of the north end of Grand Forks.

Senate Bill 2204 is a land mark piece of legislation in my mind. Not in hopes that this will affect many but for the mere chance that a life could be saved. The bill before you would grant immunity from criminal prosecution to a minor if that individual called 911 and reported that another individual under the age of 21 was in need of medical assistance due to the consumption of alcohol.

The bill requires the reporting individual or individuals to cooperate with medical personnel as well as law enforcement. The bill also provides some protection from criminal prosecution to an individual that delivered the alcohol that was consumed.

Mr. Chairman this bill is a health and safety bill and does <sup>not</sup> endorse underage drinking as some may suggest. The bill is intended to divert minors or interested parties from trying to take care of a minor that has become ill from consuming alcohol and to encourage them to seek professional help. We all know the picture of minors not seeking help for fear of being "caught"

I do not have personal experience in this situation but have experienced the possible results through the loss of a 2<sup>nd</sup> cousin which goes back about 17 years when I was 8.

.....  
Thank you chairmen Nething and members of this distinguished committee for your favorable consideration of Senate Bill 2204, I would feel free to answer any questions you may have at this time.

STATE SENATOR NICK HACKER  
District 42, Grand Forks, ND

1620 2<sup>nd</sup> Ave N  
Grand Forks, ND 58203

(701) 739-3917  
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